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The great majority of lawyers, however, are not in a situation to take advantage of these large libraries, and it is evident that to this majority, such a series, if properly edited, is of great value, not merely as a means of economizing time, but also as affording opportunity to study carefully the full text of decisions, instead of a mere digest thereof.

Of course the value of any such series depends on the soundness of judgment of the editor in selecting the cases, and the ability and thoroughness manifested in the preparation of the notes, and a careful examination of Volume XII of the Probate Reports indicates that Mr. Clark is well qualified for this work, and that he has performed the same with care and fidelity. Most of the cases are important and well chosen and the notes appended are exhaustive and accurate. Special mention should be made of the following notes: "Joint and Mutual Wills" (page 63), "When Legacies are Charged on Land" (page 101), "Revocation or Setting Aside of Probate of Will" (page 218), and "Wills; Construction; Substituting 'And' for 'Or' and Vice Versa" (page 540). in connection with the case of *Travis et al. v. Reinhardt* (1906) 205 U. S. 423. The value of the notes is enhanced by cross-references to notes in preceding volumes of this series.

In addition to the cases reported in full, the volume contains about forty pages of "Memoranda of Other Recent Decisions," and the Index of Notes and General Index makes the contents readily available.

If we were inclined to be critical it could be suggested that there might be a somewhat more systematic arrangement of the cases; that some of the statements in the notes are not as carefully worded as they should be, and are, therefore, a trifling misleading; that the General Index might be improved; and that a fine opportunity for an exhaustive note on the doctrine of "Incorporation by Reference" was afforded and neglected in connection with the case of *Hathaway et al. v. Smith* (1907) 79 Conn. 506 (p. 339). But these defects and others that might be pointed out are really unimportant as compared with the general merits of the volume.

MARTIN'S MINING LAW AND LAND OFFICE PROCEDURE WITH STATUTES AND FORMS. By THEODORE MARTIN. San Francisco: Bender-Moss Company. 1908. pp. lxiv, 980.

In his preface to the work the author says: "No effort has been made to make the work a treatise, but rather to state the law and tell where it can be found." An examination of the work shows that the author held to his plan of treatment of the subject. In the absence of Mr. Lindley's scientific work, and Morrison's practical handbooks, revised and kept up to date almost yearly, we could well hail with delight a treatise such as this and consider it a godsend to the busy practitioner. It is well edited, and of convenient size, besides being planned, both from the point of view of general arrangement and index, to meet the needs of the busy man.

But to merely "state the law" or even attempt to do so, without indicating the various side issues that may be involved in the general rules as laid down, renders the work somewhat unsatisfactory. Though the fundamental principles of mining law are pretty well established, there

are many questions that still remain open, and worthy of careful scientific treatment, and we hardly feel that a new work is justified unless it aims in some degree to add something new to this very interesting subject. For example, on p. 155, the statement is made that the original locator of a claim can re-locate after an abandonment. This statement is undoubtedly true, and yet this very question has raised some controversy among the text writers as, for example, to what extent a re-location would be evidence of fraud. If Mr. Snyder's contention is correct, namely, that it would be conclusive evidence of fraud, then it would seem that there could be no re-location by an original locator. Again, on p. 191 the statement is made that a tunnel claimant need not adverse the application for patent for a lode not yet discovered in the line of the tunnel, which, however, may be cut by the tunnel. While this proposition is undoubtedly the law today, some discussion of the matter was perhaps due the advocates of the contrary proposition. Again, on p. 235, paragraph 322, the author discusses the proposition of following the vein on its dip into adjoining agricultural land. He cites one case which holds against the lode claimant. He then briefly concludes the paragraph: "We think the more modern and advanced position, and a position more in harmony with present conditions, would be to hold that the owner of a valid mining claim having the apex of a lode within his boundary lines, should be permitted to follow it on its dip into the adjoining ground if the latter ground is held as agricultural land." No reasons are given whatever for this position. Here was an opportunity to make a very valuable contribution to the discussion of the fundamental principle underlying the law of mining in the West. To justify his conclusion, he would, it seems to us, be compelled to the position that the senior agricultural patentee took his patent subject to an existing system of law with reference to the rights of prospectors for minerals on the public domain. The agricultural patentee's position would be analogous to that of a man patenting land through which a stream of water runs, prior to any appropriation of the water of the stream. In such cases we believe that the senior patentee would take his land subject to an existing system of law governing the right of the lode claimant and appropriation of water respectively. Examples such as these might be multiplied and while they indicate that the author held to his position of making the book a mere resumé of the law, we believe that it is in this very aspect that his method of treatment is most open to criticism.

Certain features of the work deserve special commendation. On pp. 186 *et seq.*, there is an admirable discussion of "protest" and "adverse," and the distinction between them, that other writers seem to have ignored, is clearly defined. Also, on p. 272, the discussion of town sites is very valuable from the practical standpoint. The compilation of Statutes and Forms is very useful, but in a short time becomes obsolete, and unless kept up to date by subsequent revision, the later edition of such works as Morrison's will replace this. As we stated above, though we commend the general execution of the work, we do not feel that there was any seriously-felt want for a book planned as this was.